

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7553**

**BILL NUMBER:** HB 1001

**NOTE PREPARED:** Jan 11, 2011

**BILL AMENDED:**

**SUBJECT:** Budget Bill.

**FIRST AUTHOR:** Rep. Espich

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
X FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill does the following.

*State Appropriations:* The bill appropriates money for capital expenditures, the operation of the state, the delivery of Medicaid and other services, and various other distributions and purposes.

*Refund of Surplus Revenue:* The bill provides for the return of a part of the state's year-end general revenue surplus to Indiana residents in the form of a refundable adjusted gross income tax credit. It establishes the income tax reduction reserve and procedures to implement the credit program.

*Horse Racing:* The bill permits the Horse Racing Commission to pay operating costs from the breed development funds established by the Commission.

*Public Safety Officer Health Care:* It terminates contributions to the retirement medical benefits account of State Police Department, conservation officers of the Department of Natural Resources, and the State Excise Police. It also provides for a contribution to the separate health care benefit plan for these public safety officers.

*Gaming and Cigarette Tax Revenue Provisions:* This bill changes the percentage of the revenues collected from: (1) gambling games at racetracks that must be deposited in the state General Fund; and (2) cigarette taxes that must be deposited in the State Retiree Health Benefit Trust Fund.

*Correctional System Healthcare Provisions:* The bill limits hospital reimbursement for health services provided to offenders committed to the Department of Correction (DOC) and eliminates the expiration of

a hospital reimbursement limitation applicable to county sheriffs.

*GPS Monitoring and Parole:* The bill permits the Department of Correction and the Parole Board to use validated risk assessments to determine whether to require a sex or violent offender on parole to wear a location monitoring device.

*Medicaid, CHIP, and HIP Provisions:* This bill also changes the maximum income eligibility for the Children's Health Insurance Program (CHIP). It changes Medicaid and Indiana Check-up Plan (HIP) eligibility for certain services. It makes changes in the drug utilization policies for the Medicaid Program and the Children's Health Insurance Program.

*FSSA Provisions:* The bill also permits the state to contract for the management and clinical operation of any state institution under the administrative control of a division of the Family and Social Services Administration (FSSA). This bill permits changes in patient and staffing levels at or closure of the Evansville State Hospital and Evansville State Psychiatric Treatment Center for Children.

*State University Drug Purchasing:* This bill requires a state educational institution to participate in the state aggregate prescription drug purchasing program.

*Deaf School and Blind School Teachers:* This bill provides that teachers at the Deaf School and the Blind School accrue vacation leave in accordance with the policies set by Indianapolis Public Schools and are not eligible for vacation leave granted to other state employees.

*State Student Assistance Programs:* The bill permits money to be transferred from the Freedom of Choice Grant Fund to the Higher Education Award Fund. It also changes the eligibility requirements for a 21st Century Scholarship for students who enter the program after June 30, 2011.

*ICHIA Provisions:* The bill revises the eligibility requirements for an Indiana Comprehensive Health Insurance Association (ICHIA) policy to require applicants to first apply for the federal pre-existing condition insurance plan and the Healthy Indiana Program. The bill authorizes the ICHIA Board to implement a reduced reimbursement rate program. It sets the ICHIA premium rates at 150% of the average commercial carrier rate.

*Public Deposit Insurance Fund Transfer:* The bill also provides for a transfer from the Public Deposits Insurance Fund (PDIF) to the state General Fund.

**Effective Date:** July 1, 2011.

**Explanation of State Expenditures:** The bill has the following state expenditure impacts.

*State Appropriations:* The following summary is for state appropriations during FY 2012 and FY 2013.

<b>Appropriations by Function (SECTION 1-36)</b>	<b>FY 2012 **</b>	<b>FY 2013 **</b>
General Government	\$556,010,368	\$611,361,758
Corrections	662,752,203	670,548,200
Other Public Safety	94,572,208	94,644,114
Conservation and Environment	72,912,130	72,912,130
Economic Development	43,052,913	43,052,913
Transportation	0	0
Mental Health	245,563,984	245,563,984
Public Health	31,512,056	31,512,056
Medicaid	1,864,103,064	2,008,703,064
Family and Children	175,108,656	176,184,123
Social Services and Veterans	770,837,482	770,837,482
Higher Education	1,652,450,600	1,645,735,329
Education Administration	13,441,831	13,441,831
Tuition Support - GF	6,247,707,000	6,247,707,000
Social Security - Teachers	2,403,792	2,403,792
Teacher's Retirement - GF	725,400,000	747,200,000
Other Local Schools	255,640,364	251,640,364
Other Education	8,183,693	8,183,693
Distributions *	161,500,000	161,500,000
<b>Total Operating</b>	<b>\$13,583,152,344</b>	<b>\$13,803,131,833</b>
Construction - Higher Ed	\$22,558,419	\$29,273,800
Construction - Other	269,629,352	261,418,733
Total Construction	\$292,187,771	\$290,692,533
<b>Total GF (Operating + Construction)</b>	<b>\$13,875,340,115</b>	<b>\$14,093,824,366</b>
BIF	\$13,701,889	\$13,701,889
Other Dedicated - Operating	1,424,411,817	1,359,902,530
Other Dedicated - Construction	38,673,676	37,308,205
Tobacco Settlement	132,032,867	132,033,352
Federal	916,130,000	971,070,000
<b>Total (Dedicated and Federal)</b>	<b>\$2,524,950,249</b>	<b>\$2,514,015,976</b>
<b>Total - All</b>	<b>\$16,400,290,364</b>	<b>\$16,607,840,342</b>
* Distributions total does not include \$8.1 M in each year of the biennium for the Alcoholic Beverage Commission Gallonage Tax, which is in current statute but is not in this bill.		
** Biennial appropriations are distributed in each fiscal year based on the timing of expenditures anticipated by the State Budget Agency.		

*Refund of Surplus Revenue:* The bill establishes the Income Tax Reduction Reserve Fund to pay for tax credits given to resident taxpayers in a fiscal year that the state General Fund surplus exceeds limits specified by the bill. The fund is nonreverting and is to be administered by the State Budget Agency. The bill requires

the Auditor of State to make a transfer to the fund if the state General Revenue Fund balance at the end of the preceding fiscal year is greater than 10% of the state General Fund budgeted appropriations for the current fiscal year. The bill defines general revenue fund as the Rainy Day Fund, the state General Fund, including the Medicaid contingency and reserve account of the state General Fund, and the state Tuition Reserve Fund. The transfer to the Income Tax Reduction Reserve Fund must be made by July 31<sup>st</sup> of the fiscal year. If the bill was already in effect, transfers would not have been required since FY 2001.

Administration of the Refund Tax Credit: The bill requires the State Budget Agency (SBA) to annually estimate the tax credit percentage for purposes of the tax credit to refund state General Fund surplus. After the transfer amount to the Income Tax Reduction Reserve Fund is determined, the SBA must compute the tax credit percentage for the tax year ending during that fiscal year. The tax credit percentage is the ratio of the transfer to the sum of:

- (1) the estimated number of single returns to be filed by Indiana residents;
- (2) the estimated number of joint returns to be filed where only one of the filers is an Indiana resident; and
- (3) two times the estimated number of joint returns to be filed where both filers are Indiana residents.

The SBA's current level of resources should be sufficient to implement this task.

The Department of State Revenue (DOR) will have to revise tax forms, instructions, and computer programs to implement the new tax credit in the years when it is applicable. There could be additional costs of sending refund checks to taxpayers who would otherwise not receive a tax refund in the absence of this tax credit. These costs are indeterminable, but could be mitigated to the extent that refunds to these taxpayers are provided by direct deposit.

*Indiana Horse Racing Commission (IHRC):* The bill makes the following changes:

- (1) It specifically authorizes the IHRC to pay the operating costs of the breed development programs and other costs of administering the breed development programs from the breed development funds. The IHRC expects to save about \$190,000 annually from the IHRC operating account due to this change.
- (2) It moves costs of equine post-mortem examinations and certain testing and analysis relating to racing integrity currently paid out of the IHRC operating account to the Gaming Integrity Fund. The IHRC expects to save about \$40,000 annually from the IHRC operating account due to this change.

Currently, there are three breed development funds - thoroughbred, standardbred, and quarter horse. The breed development funds receive revenue from breakage, outs tickets, slot machine gross receipts, and fees. The table below summarizes the revenue and spending from the breed funds in FY 2010.

FY 2010 Fund Activity				
Breed Development Fund	Revenue	Expenditures		
		Purse Supplements & Owners/Breeders Awards	Administrative & Other	Total
Standardbred	\$14,059,843	\$12,790,510	\$168,734	\$12,959,244
Thoroughbred	10,975,921	9,970,429	66,383	10,036,812
Quarter Horse	1,401,350	1,186,732	19,957	1,206,689

The Gaming Integrity Fund annually receives \$500,000 from each of the racinos. Revenue to the Gaming Integrity Fund totaled \$1 M in FY 2010, with spending from the fund totaling \$574,003. The fund is used to pay the costs of equine drug testing and analysis, improvements in testing, and research relating to equine drug testing.

*Public Safety Officer Retirement Medical Benefit Plan:* The bill would exclude the excise police, conservation enforcement officers, and state police from contributing to the defined contribution retirement medical benefit plan. The individuals already have a defined benefit retirement plan, so a second plan is unnecessary. The money that would have been spent on the defined contribution retirement medical benefit plan is to be allocated to the defined benefit retirement medical benefit plan, instead.

*Correctional System Healthcare Provisions:* This provision will cap the amount that health care providers can charge the Department of Correction for medical services for confined offenders to 4% above the federal Medicare reimbursement rate. If there is no federal Medicare reimbursement rate, the state will reimburse the health care provider or hospital at 65% of the amount charged by the health care provider or hospital that is specified by the charge master of the health care provider or hospital. Current law has the same cap for services charged by healthcare providers for persons in county jails.

DOC currently contracts with Correctional Medical Services for providing healthcare and medical services to confined offenders. This contract runs for the period between September 1, 2009, to August 31, 2011. This contract is worth \$276.8 M.

Depending on what the current contract specifies, this provision could reduce costs to DOC for providing medical services to confined offenders.

*GPS Monitoring and Parole:* The bill also specifies that based upon a validated recidivism risk assessment, the parole board shall upon recommendation of the director of parole services require that certain persons convicted of child molesting be required to wear a GPS tracking device, and it permits the parole board to require other sex and violent offenders be required to wear a GPS tracking device. It also provides that the parole board may remove the requirement that a parolee wear a GPS tracking device upon recommendation of the director of parole services based upon a validated recidivism risk assessment.

Under current law, any sexually violent offender is required to wear a GPS tracking device. This bill reduces the number of sex offenders who would be required to wear a GPS monitoring device from roughly 589 to 35. The average cost of wearing a GPS device and monitoring these offenders is roughly \$15 each day.

*Medicaid, CHIP, and HIP Provisions:*

**Reductions in Medicaid State Plan Services:** The bill eliminates certain services for specified populations resulting in state savings of \$12.9 M for each year of the biennium. This total savings of \$12.9 M is due to (a) the elimination of Medicaid coverage for chiropractic services (resulting in a reported state savings of \$ 0.8 M for each year of the biennium) and (b) limitations on the provision of dental and podiatric services to recipients who are less than 21 years of age (resulting in state savings of \$11.6 M and \$0.5 M, respectively, for each year of the biennium).

**Medicaid Preferred Drug List (PDL) and Drug Utilization Review (DUR):** Medicaid mental health drug provisions are reported to result in estimated annual state savings of \$7.2 M. The bill removes unrestricted access to mental health drugs in the Medicaid and the Children's Health Insurance Program (CHIP) allowing for the review of the therapeutic classes of drugs for the purpose of placement on or removal from the PDL. Drugs that are not included on the PDL will continue to be available with prior authorization procedures. Drug classes included on the list could be bid for supplemental rebates.

**Indiana Check-Up Plan (HIP) Benefits:** The bill deletes a provision that requires the Healthy Indiana Plan to provide dental and vision care benefits. This provision has no fiscal impact since the Centers for Medicare and Medicaid Services (CMS) did not approve these benefits for inclusion in the final benefit package for the HIP Medicaid waiver.

**CHIP Eligibility Provision:** The bill would reduce the income eligibility for CHIP from 300% of the federal poverty level (FPL) to 250%, resulting in a state savings of \$0.6 M in FY 2012 and \$1.3 M in FY 2013. No children currently on CHIP would lose coverage as a result of this provision. Currently, the income eligibility for the CHIP program is 250% of FPL. The Office of Medicaid Policy and Planning was approved by CMS in January 2010 to expand the eligibility to the legislatively mandated 300% level and had planned to implement the expansion July 1, 2011. The expansion was estimated to cover an additional 146 children each month for two years resulting in 3,500 additional children receiving CHIP coverage. The income eligibility would impact a family of four with annual income over \$55,125 but less than \$66,150.

**FSSA Provisions:** The bill will remove provisions of current law that prohibit the Division of Mental Health and Addiction from reducing staffing and patient services below certain rates at Evansville State Hospital and Evansville State Psychiatric Treatment Center for Children. These changes are expected to save between \$600,000 and \$2 M in state costs annually.

**State University Drug Purchasing:** The bill would require state education institutions to participate in the state aggregate prescription drug purchasing program unless the Budget Agency determines participation would not result in a savings. Currently, state education institutions may choose to participate but are not required to participate. Three state educational institutions currently participate in the program, and four do not.

**State Student Assistance Programs:** The bill would allow the State Student Assistance Commission to transfer money from the Freedom of Choice Grant Fund to the Higher Education Award Fund after the commitments of the Freedom of Choice grant have been met. The Freedom of Choice awards were about \$43.7 M in FY 2007 and increased to \$52.5 M in FY 2009, and the Higher Education awards were about \$119.6 in FY 2007 and increased to \$144.4 M in FY 2009. The bill would allow greater flexibility in the use of scholarship funding. The FY 2011 and FY 2012 appropriations for these grant programs are \$52.1 M and \$152.9 M respectively for each year of the biennium.

*ICHIA Provisions:* The ICHIA provisions in this bill could reduce expenses by a total of \$6.15 M annually.

Of the total \$6.15 M expense reduction, authorizing the ICHIA Board to implement a reduced reimbursement rate at not less than Medicare plus 10% could reduce costs annually by \$3.75 M. Revising eligibility requirements to require applicants to first apply to the federal Pre-existing Condition Insurance Program and the Healthy Indiana Plan could reduce costs by \$225,000. Mandating that ICHIA charge premium rates equal to 150% of the average commercial carrier rate could reduce costs by \$2.175 M.

*Public Deposit Insurance Fund (PDIF):* The bill requires the State Budget Agency to transfer \$200 M from the PDIF to the state General Fund before December 31, 2011. At the end of FY 2010, the PDIF held total net assets of \$302.4 M. This total was comprised primarily of investments maturing in one year worth \$198.5 M, long-term investments worth \$51.1 M, and a loan receivable worth \$50 M. Interest earnings from the PDIF are transferred annually to cover pension benefits of the Pre-1977 Police and Fire Funds. The PDIF transferred \$14.6 M in December 2009, \$8.2 M in December 2010, and will transfer \$2.4 M in December of 2011. The reduction of investments in the fund will reduce future interest transfers. The Pension Relief Fund makes up the difference in pension obligations after the transfer of PDIF interest.

### **Explanation of State Revenues:**

*Tax Credit to Refund Surplus Revenue:* The bill provides a refundable individual adjusted gross income tax credit to resident taxpayers when the state General Revenue Fund balance at the end of a fiscal year is greater than 10% of the budgeted appropriations from the state General Fund for the current fiscal year. (See *Explanation of State Expenditures* for definition of state General Revenue Fund.) The tax credit is to be given to resident taxpayers in the tax year ending during the fiscal year in which the 10% threshold is exceeded. The tax credit is equal to the tax credit amount determined by the State Budget Agency for a single return where the filer is an Indiana resident or to a joint return where only one of the filers is an Indiana resident. The tax credit is equal to the tax credit amount multiplied by two for joint returns where both filers are Indiana residents. While the tax credit is effective beginning in tax year 2011, it is estimated that no excess balance transfer will be required so no tax credits will be given. The magnitude of the credit in any tax year depends on the taxes paid by a taxpayer in the previous year as well as the magnitude of state General Fund balances and appropriations.

An individual taxpayer residing in Indiana on January 1<sup>st</sup> of the tax year is entitled to the tax credit if credits are given in that tax year. The bill provides that the tax credit is refundable and prohibits the tax credit from being carried back or carried forward by a taxpayer.

*Racino Payment of Slot Machine Revenue to Horse Racing:* The bill changes the distribution formula for the racino payment to horse racing to direct more of this revenue to the state General Fund. The new distribution formula will lower current distributions for purposes of horse racing purses and for state breed development funds, and will establish a percentage distribution to the state General Fund. The net impact to state funds from the distributional change is presented in the table below.

<b>Impact in Million \$</b>	<b>FY 2012</b>	<b>FY 2013</b>
State General Fund	\$19.4	\$20.4
Thoroughbred Development Fund	(3.0)	(3.1)
Standardbred Development Fund	(5.6)	(5.8)
Quarter Horse Development Fund	(0.7)	(0.8)
<b>Net Impact</b>	\$10.1	\$10.7

Under current statute, the racinos are required to pay 15% of their annual slot machine adjusted gross wagering receipts (AGR) to the following purposes: (1) the state Gaming Integrity Fund; (2) the state Breed Development Funds; (3) private horsemen's associations; and (4) horse racing purses. Current statute also has an inflationary limit on the annual payment to the horse racing purposes specified in (1) through (4) that currently directs money to the state General Fund. Under this provision, if 15% of a racino's AGR in a fiscal year exceeds the 15% payment made by the racino in the prior fiscal year increased by the inflation rate, the excess is transferred to the state General Fund. The bill would eliminate this provision, and instead capture revenue for the state General Fund directly through a percentage distribution.

The table below compares the current distribution formula and estimated distributions for FY 2012 and FY 2013 to the distribution formula in the bill and the estimated FY 2012 and FY 2013 distributions resulting from the new formula.



	Current	FY 2012	FY 2013	Proposed	FY 2012	FY 2013
15% of AGR Payment by Racinos		\$69.3	\$69.1		\$69.3	\$69.1
General Fund Capture*		10.2	9.1		N/A	N/A
Net after General Fund Capture		59.1	60.0		69.3	69.1
Gaming Integrity		0.5	0.5		0.5	0.5
Net after Gaming Integrity		58.6	59.5		68.8	68.6
Equine Promotion/Welfare	0.5%	0.3	0.3	0.42%	0.3	0.3
Backside Benevolence	2.5%	1.5	1.5	2.08%	1.4	1.4
Total to Breeds, Purses, Assoc.	97%	56.8	57.7	54.5%	37.5	37.4
Total to Thoroughbred Purposes	46%	26.1	26.5	48.4%	18.1	18.1
Purses & Assoc.	60%	15.7	15.9	58.7%	10.7	10.6
Purses	97%	15.2	15.4	95.6%	10.2	10.1
HPBA**	2.4%	0.4	0.4	3.5%	0.4	0.4
TB O&B Assoc.**	0.6%	0.1	0.1	0.9%	0.1	0.1
Breed Development	40%	10.4	10.6	41.3%	7.5	7.5
Total to Standardbred Purposes	46%	26.1	26.5	48.4%	18.1	18.1
Purses & Assoc.	50%	13.1	13.3	58.7%	10.7	10.6
Purses	96.5%	12.6	12.8	95.8%	10.2	10.2
SB Assoc.**	3.5	0.5	0.5	4.2%	0.45	0.45
Breed Development	50%	13.1	13.3	41.3%	7.5	7.5
Total to Quarter Horse Purposes	8%	4.6	4.6	3.2%	1.2	1.2
Purses & Assoc.	70%	3.2	3.2	47.8%	0.6	0.6
Purses	95%	3.0	3.0	72.8%	0.4	0.4
QHRA**	5%	0.2	0.2	27.2%	0.2	0.2
Breed Development	30%	1.4	1.4	52.2%	0.6	0.6
General Fund Distribution	N/A	N/A	N/A	43%	29.6	29.5
*General fund capture of revenue under inflationary limit described in prose. **HPBA=Horsemen's Protective and Benevolent Association; TB O&B Assoc.=Thoroughbred Owners and Breeders Association; SB Assoc.=Standardbred Association; QHRA=Quarter Horse Racing Association.						

*Cigarette Tax Revenue Provisions:* The bill provides that 5.74% of the revenues collected from the Cigarette Tax are to be deposited into the state General Fund rather than the State Retiree Health Benefit Trust Fund during the biennium ending June 30, 2013. This would increase revenues to the state General Fund by \$26.9 M in FY 2012 and \$26.7 M in FY 2013, and the amount distributed to the State Retiree Health Benefit Trust Fund will be reduced by the same amount during this period. The distribution returns to the current percentages beginning in FY 2014.

**Explanation of Local Expenditures:** *Vacation Time:* Under current law, both the Indiana School for the Deaf and the Indiana School for the Blind and Visually Impaired are state merit agencies. Employees are subject to a salary schedule for the school using a daily rate of pay for each teacher that is equal to that of the largest school corporation in the county in which the school is located (i.e., Indianapolis Public Schools (IPS)). However, the vacation schedule of employees are governed by state personnel rules. Teachers with 1 to 4 years of service are entitled to 90 hours of vacation time per year; those with 5 to 9 years, 112.5 hours; those with 10 to 19 years of service 150 hours; and those with 20 or more years, 187.5 hours.

Under this bill, the vacation schedule of the employees at the two schools would no longer be governed by the state personnel rules but would be the same as provided through IPS. Teachers in IPS are on 10-month contracts with no vacation time. IPS administrators have a choice of an 11-month contract with 120 hours of vacation or a 12-month contract with 160 hours of vacation.

*County Jail Healthcare Provisions:* The bill also establishes caps on reimbursement of healthcare services provided by jails to persons who are under the custody of county sheriffs. The current caps (4% above federal Medicare rates or 65% of listed charges if there is no federal Medicare rate) are due to expire on June 30, 2011. This bill would strike the expiration date so the statutory cap would be permanent.

**Explanation of Local Revenues:**

**State Agencies Affected:** All.

**Local Agencies Affected:** All.

**Information Sources:** State Revenue Forecast, December 15, 2010; *State of Indiana Employee Handbook*; State Budget Agency, *Fiscal Year 2009-2010 Close-Out Statement* (July 16, 2010).

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